

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

WILLIAM R. THOMPSON, JR.,

Plaintiff,

v.

CIV. NO. 09-63 RB/ACT

MICHAEL J. ASTRUE,
Commissioner of the Social
Security Administration,

Defendant.

**MAGISTRATE JUDGE'S PROPOSED FINDINGS AND RECOMMENDED
DISPOSITION ON APPLICATION TO PROCEED IN FORMA PAUPERIS**

THIS MATTER comes before the Court on Plaintiff's Motion to Proceed in forma pauperis with Financial Affidavit pursuant to 28 U.S.C. §1915. [Doc. 2.] Plaintiff is seeking an order of the court that he is indigent and thus may proceed without payment of the filing fee and costs. Upon consideration of Plaintiff's Financial Affidavit and Application, the Court recommends that Plaintiff request to proceed IFP be denied.

Pursuant to 28 U.S.C. §1915(a), a district court may authorize a plaintiff to commence a civil case if the plaintiff submits an affidavit that shows a financial inability to pay the required fees.

Lister v. Dept. of the Treasury, 408 F.3d 1309, 1312 (10th Cir. 2005). When considering a §1915(a) motion, the court is to determine whether the statements in the affidavit satisfy the requirement of poverty. *Id.* at 1312 ("....in order to succeed on a motion to proceed IFP, the movant must show a financial inability to pay the required filing fees....").

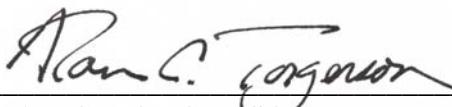
In the Affidavit Plaintiff disclosed he owns a home with a value of \$150,000. The Affidavit also discloses that his spouse has a total monthly net income of \$1906.58. He has a car payment of \$304.62 per month and utilities cost \$206.00 per month. His monthly payment on outstanding debts is approximately \$300.00 per month. Thus, Plaintiff's Affidavit demonstrates that there is \$1900 per month in income and \$1000 in month bills.

Plaintiff's monthly income exceeds his monthly debts and he has \$150,000 in equity in his home. The Court will therefore recommend that Plaintiff's IFP Motion be denied.

RECOMMENDED DISPOSITION

The Court recommends that Plaintiff's Motion to Proceed in forma pauperis with Financial Affidavit pursuant to 28 U.S.C. §1915 be denied.

The parties are further notified that within ten (10) days of service of a copy of these Proposed Findings and Recommended Disposition they may file written objections with the Clerk of the District Court pursuant to 28 U.S.C. §636(b)(1). A party must file any objections with the Clerk of the District Court within the ten (10) day period if that party wants to have appellate review of the proposed findings and recommended disposition. If no objections are filed, no appellate review will be allowed.



ALAN C. TORGERSON
UNITED STATES MAGISTRATE JUDGE